IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 5581 of 1997

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the Judgment ?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the Judgment ?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

MATRUSHREE SHANTADEVI EDUCATIONAL & MEDICAL TRUST
VERSUS
DISTRICT EDUCATION OFFICER

Appearance:
None present for the petitioner
MS MANISHA LAVKUMAR, AGP, for Respondent

CORAM : MR JUSTICE S.K. KESHOTE
Date of Decision : 24/07/2000

C.A.V. JUDGMENT

1. Perused the special civil application and heard the learned counsel for the respondent. In this special

civil application, this court on 5-9-1997 ordered as under:

> Rule. To be heard with Special Civil Application Nos. 3914 of 1996, 3883 of 1996, 4760 of 1995, 6506 of 1987. By way of ad-interim relief the petitioner is permitted to raise the fees for primary section to Rs.110/per month provisionally and subject to further orders that may be made. All these petitions will come up for final hearing on 16-9-97. It is directed that the respondent authority will in the meantime decide the application of the petitioner for permitting the petitioner to raise the fees. Any decision that may be taken will be placed on the record of this petition before the next date of hearing.

2. So by way of interim relief, the petitioner is permitted to raise the fees of primary section to Rs.110/- p.m. provisionally and subject to further orders that may be made. In the special civil application, the petitioner is praying for direction to the respondent to allow it to charge monthly fees at the rate of Rs.150/- per student of primary section.

3. Reply to the special civil application is not there in the papers placed before me. From the facts of this case, I find that in the year 1990-91, the Dist. Education Officer, permitted the petitioner to raise the fees from Rs.60/- to Rs.75/-p.m. and that also when the petitioner approached to this Court by filing the special civil application No.6506 of 1987. The pay scales, dearness allowance payable to the teachers, cost of stationery, laboratory equipments and other required in the school have increased substantially. Accordingly the petitioner on 6-4-1994 applied to the respondent for grant of permission to raise the fees from Rs.75/-p.m to Rs.120/-p.m.. This request was reiterated by subsequent letter dated 1-1-1996. Again a letter has been sent on 13-2-1997 wherein prayer has been made for grant of permission to raise the fees from June, 1996, but no action has been taken. Hence, this special civil application.

4. I fail to see any justification in this approach of the respondent. When the application has been filed by the petitioner for grant of permission to raise the fees and the petitioner has furnished the justification for this request, the application has to be considered and decided. Whether that application is granted or

not, it is not the matter but the Officer concerned who has been entrusted with the power has to decide the same so that unnecessary litigation may not come before this Court. This attitude of the Officer to sit over the applications filed by the litigants, compel them to approach this court in the matter, which otherwise are avoidable. In such matters also, when the litigant approaches to this court, this court has given direction to the respondent for deciding the same in accordance with law. By way of interim relief, this court has permitted the petitioner to raise the fees of primary section to Rs.110/-p.m..

5. The interest of justice will be met in case this petition is disposed of in terms that the respondent shall decide the application of the petitioner under which it prayed for grant of permission to raise the fees from Rs.75/- to Rs.120/-p.m. within a period of one month from the date of receipt of writ of this order. Till the matter is decided by the respondent, and further for 15 days more from the date of the decision on the application, the interim order of this court shall continue. In case the order of the respondent, goes adverse to the petitioner, liberty is granted to it for revival of this special civil application. Rule and special civil application stand disposed of accordingly with no order as to costs.

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